

**Louisville (Kentucky) Motor Vehicle Emission Budgets for Transportation Conformity
Adequacy Determination — Response to Comments
July 22, 2003**

The following are the U.S. Environmental Protection Agency's (EPA) responses to comments received on the Adequacy notification posting for revised MOBILE6-based 2012 Motor Vehicle Emission Budgets (MVEBs) for the Kentucky Portion of the Louisville 1-hour ozone maintenance area. These responses acknowledge the comments received and responses by the Kentucky Division of Air Quality (KDAQ) and the Jefferson County Air Pollution Control District (APCD) for the Louisville 1-Hour Ozone Maintenance plan during the air quality agencies' public comment period and at the public hearing held on June 18, 2003. By the close of the comment period for the Adequacy notification (i.e., June 27, 2003), EPA only received comments from the environmental group, River Fields.

- 1. Comment:** *"The gist of our comments on this pending revision is that it is imperative that there be more effort to collect regional and local data, particularly on fleet mix and speed data, before the MVEB is approved. The Clean Air Act requires use of the "latest planning assumptions" in all steps of the conformity determination process. U.S. EPA guidance clearly promotes the collection of local data so that decisions can be made based on the "latest and best" assumptions about populations, employment, and regional travel characteristics. The issue of collecting updated data for this pending SIP revision is entangled in circular reasoning of all entities involved in the conformity determination process. Local agencies have not collected updated data, stating that such an effort is "optional" or is guidance only rather than regulations (see, e.g., APCD June 17, 2003 Comment and Response Document). The U.S. EPA, in turn, has apparently enabled this failure of effort. APCD also states that the outcome of the MVEB determination would not substantively vary anyway, even with updated local data."*

Response: EPA disagrees with River Fields' assessment of the level of effort on the part of the Louisville transportation and air quality partners to review and update planning assumptions for the Louisville maintenance plan revision. In contrast, EPA believes that the methodology and assumptions used by the Louisville metropolitan planning organization (MPO), in support of APCD, to develop the 2012 MVEBs with MOBILE6 is sound and reflects the most current information that was available for this area at the time the maintenance plan revision was developed.

Specifically, EPA believes that the planning assumptions used to develop the Louisville SIP revision satisfy Clean Air Act (CAA) § 172(c)(3) and EPA's regulation at 40 CFR 51.112(a) that require States to use the latest planning information in State Implementation Plan (SIP) development. Furthermore, EPA believes the information used in the MOBILE6 maintenance plan revision was also consistent with the joint EPA and U.S. Department of Transportation's (U.S. DOT) guidance entitled, *Use of Latest Planning Assumptions in Conformity Determinations*, dated January 18, 2001, and EPA's January 18, 2002, MOBILE6 policy guidance. Both these guidance memoranda clarify the Agency's expectation that SIP revisions developed with MOBILE6 should

incorporate the latest planning information and data that is *available* to State and local planners at the time a SIP is developed with MOBILE6 (e.g., the MPO or other agency can obtain the information from another agency, the information is appropriate, and the information is readily transferable for use in transportation and/or emissions modeling, etc.).

In the Transportation Conformity Rule, 40 CFR 93.105(c)(1)(i) places the responsibility of determining the latest available information to be used in conformity and the development of MVEBs on the interagency workgroup. The Louisville interagency consultation group has extensively discussed and considered the need to develop regional and local inputs, particularly for fleet mix and speed data, in this SIP revision. The interagency consultation workgroup, comprised of the Federal, state and local transportation and air quality partners, concluded that it was necessary to review the national default inputs used for these planning assumption and compare this data with data that was more representative of the local area conditions.

With regard to fleet mix, the Louisville interagency consultation workgroup determined that the vehicle database, compiled using data from the Louisville inspection and maintenance program, is an appropriate source for the area to obtain this data. In an attempt to better assess speed considerations for the Louisville area, the MPO developed a methodology by which to make a comparison between national default data and local area activity, and made adjustments as necessary. This methodology and the resulting planning assumptions, which were used for the MOBILE6 inputs, were reviewed and accepted by the interagency consultation partners as being consistent with the joint EPA and DOT guidance on the use of latest planning assumptions and EPA's MOBILE6 policy guidance. It is important to note, however, that as a former moderate nonattainment area for ozone, the MPO was not mandated to actually develop this information for a specific regulatory requirement.

2. **Comment:** *“With heightened community concerns about air quality and air toxics measurements that pose unacceptably high cancer risks, the lowest allowable level of effort should not be accepted in this or any other related regulatory process for this region. The U.S. EPA should find this lowest level of effort unacceptable and send the pending SIP revisions back for a level of effort warranted by the level of community impact and concern. This data will also be helpful as the air toxics mobile source emission estimation model is disseminated and incorporated into regulatory processes.”*

Response: The CAA establishes several, separate programs to address different types of air pollution. The SIP program addresses emissions that impact an area's ability to attain or maintain national ambient air quality standards (NAAQS), such as the 1-hour ozone standard. Under the CAA, EPA promulgates the NAAQS and States are then provided the discretion to develop State air quality implementation plans or “SIPs” to attain and maintain the NAAQS. If a SIP meets these criteria of the Act, EPA must approve the plan and cannot mandate the choices that the state makes to meet these goals. Separate provisions of the CAA include other programs, such as the program to address the

emission of hazardous air pollutants (HAPs). These regulations are not relevant for the purposes of this adequacy finding and EPA's subsequent approval or disapproval of the Louisville maintenance plan revision, which only concern the compliance with 1-hour ozone NAAQS requirements.

EPA has evaluated the adequacy of the 2012 MVEBs in the Louisville 1-hour ozone maintenance plan revision that was submitted in accordance with applicable CAA regulations and guidance based on the SIPs intended purpose. We believe that the MVEBs meet the adequacy criteria outlined in the Transportation Conformity Rule, 40 CFR 93.118(e)(4). See response #4 for more detail.

With regard to community concerns about risks posed by air toxics in Louisville, EPA, in conjunction with a wide array of area stakeholders, has been and continues to work to assess the potential impact of HAPs on area residents through the West Louisville Air Toxics Study. The Agency intends to continue this work of evaluating risks to the community and to developing workable solutions to any significant issues identified.

3. **Comment:** *"Further, the U.S. EPA is required to ensure and maximize the quality and utility of information it disseminates to the public under the Office of Management and Budget's (OMB) Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies which implement Section 515 of the Treasury and General Appropriations Act for Fiscal Year 2001. The U.S. EPA's own data quality guidelines (draft, May 1, 2002) indicate that this responsibility may include data furnished by state and local governments, APCD and KDAQ, that receive federal financial assistance (pg. 4). Any U.S. EPA approval of the pending MVEB that is based on an application of MOBILE6 which fails to use that latest travel-related data is, therefore, a failure to ensure that quality and utility of data under these guidelines."*

Response: The proposed Louisville MVEB is based on the latest travel-related data available and is thus consistent with the requirements of the CAA § 172(c)(3) and 40 CFR § 51.112(a). The OMB Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies, 67 Fed. Reg. 8452, does not require that EPA substitute its already comprehensive data quality requirements for the development of MVEBs with OMB's guidelines. Instead the OMB guidelines requires EPA, and other federal agencies, to (1) issue their own information quality guidelines; (2) establish administrative mechanisms allowing affected persons to seek and obtain correction of information maintained and disseminated by EPA; and (3) report to the Director of OMB the number of complaints regarding agency compliance with the OMB guidelines. EPA has already accomplished this by issuing its own information quality guidelines and establishing mechanisms for the review and correction of agency information where appropriate. The OMB guidelines direct each agency to "adopt a basic standard of quality (including objectivity, utility, and integrity) as a performance goal and should take appropriate steps to incorporate information quality criteria into agency information dissemination practices." 67 Fed. Reg. at 8458.

EPA has already addressed data quality objectives for the establishment of MVEBs. The commentor does not provide a specific example of how the preparation of the MVEBs was inconsistent with OMB Guidelines except to assert that it failed to use the latest travel related data. However, as described in EPA's response to Comment 1, the MVEBs in the Louisville maintenance plan revision were developed with EPA's MOBILE6 and the latest available travel related data. This is also consistent with the joint EPA and U.S. Department of Transportation's guidance entitled, *Use of Latest Planning Assumptions in Conformity Determinations*, dated January 18, 2001, and EPA's January 18, 2002, MOBILE6 policy guidance. Thus, EPA has complied with OMB Guidelines by issuing its own information quality guidelines, by creating a mechanism whereby the public can seek and obtain correction of EPA's information that is disseminated to the public and by issuing information quality policies such as the MOBILE6 policy guidance and the *Use of Latest Planning Assumptions in Conformity Determinations*, which address the quality of information used to establish MVEBs.

4. **Comment:** *"For the foregoing reasons, River Fields request that the U.S. EPA find the pending MVEB inadequate and return the pending SIP revision to the APCD and KDAQ for additional action that will ensure data quality and utility in this and future conformity determinations processes."*

Response: EPA disagrees with River Fields assessment of the adequacy of the 2012 MVEBs included in the Louisville ozone maintenance plan revision. EPA's regulations identify the criteria to judge the adequacy of the submitted MVEBs (40 CFR 93.118(e)(4)). EPA has reviewed the maintenance plan submission and found that the submission satisfies these criteria. Our findings with respect to each of the criteria listed in 93.118(e)(4) are as follows:

40 CFR 93.118(e)(4)(i): The submitted control strategy implementation plan revision or maintenance plan was endorsed by the Governor (or his or her designee) and was subject to a State public hearing. **EPA's Finding:** On May 16, 2003, EPA received a prehearing submittal, endorsed by the Governor's designee, for revisions to the Kentucky SIP to include MOBILE6-based MVEBs. The KDAQ and APCD held the public hearing for this revised maintenance plan on June 18, 2003. The final submittal for this SIP revision request, dated June 24, 2003, was also endorsed by the Governor's designee.

40 CFR 93.118(e)(4)(ii): Before the control strategy implementation plan or maintenance plan was submitted to EPA, consultation among federal, State, and local agencies occurred; full implementation plan documentation was provided to EPA; and EPA's stated concerns, if any, were addressed. **EPA's Finding:** The Louisville interagency consultation group extensively discussed and considered the need to develop regional and local inputs, particularly for fleet mix and speed data, in this SIP revision. The interagency consultation workgroup, comprised of the federal, State and local transportation and air quality partners, concluded that it was necessary to review the national default inputs used for these planning assumption and compare this data with data that was more representative of the local area conditions. Draft documentation was

shared with the entire interagency consultation group. In the final document, KDAQ and APCD addressed all of EPA's stated concerns.

40 CFR 93.118(e)(4)(iii): The State SIP must explicitly identify and quantify MVEB for NO_x and VOCs. **EPA's Finding:** The Louisville 1-Hour Ozone Maintenance plan provides an explicit MVEB for VOC (i.e., 47.28 tons per day (tpd)) and NO_x (111.13 tpd).

40 CFR 93.118(e)(4)(iv): The MVEB, when considered together with all other emission sources, must be consistent with attainment and/or maintenance of the applicable NAAQs. **EPA's Finding:** EPA has preliminarily concluded that the submitted SIP demonstrates maintenance for the 1-hour ozone standard, and the MVEB is consistent with that demonstration.

40 CFR 93.118(e)(4)(v): The MVEB must be consistent with and clearly relate to the emissions inventory and the control measures in the submitted SIP. EPA interprets this to mean that the MVEB must come from the local nonattainment area motor vehicle emissions inventory for the year that the SIP is demonstrating attainment/maintenance, and that the MVEB must reflect appropriate projections of motor vehicle emissions and emissions reductions from control measures for the attainment/maintenance year. **EPA's Finding:** EPA believes that the emissions inventory and the control measures in the revision to the Louisville 1-hour ozone maintenance plan clearly reflect the appropriate motor vehicle emissions inventories and control programs in the SIP.

40 CFR 93.118(e)(4)(vi): Revisions to previously submitted control strategy implementation plans or maintenance plans explain and document any changes to previously submitted budgets and control measures; impacts on point and area source emissions; any changes to established safety margins (see 93.101 for definition); and reasons for the changes (including the basis for any changes related to emission factors or estimates of vehicle miles traveled). **EPA's Finding:** APCD and KDAQ provide explicit language regarding changes to the MVEB, the calculated safety margin and the impacts for point and area source emissions. Additionally, APCD and KDAQ provide documentation for the updated planning assumptions associated with this SIP revision and the development of the MOBILE6-based MVEBs.

The revised MOBILE6-based 2012 MVEBs for the Louisville 1-hour ozone maintenance area meet these requirements and therefore, are adequate for conformity purposes. Per EPA's policy guidance entitled, *Policy Guidance on Use of MOBILE6 for SIP Development and Transportation Conformity*, dated January 18, 2002, Louisville is required to use these MOBILE6-based MVEB upon our affirmative adequacy finding.